

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 MICHAEL EUGENE SCOTT,
11 Plaintiff

Case No. CV 18-6221-JLS (KK)

13 CARSON SHERIFF DEPT., ET AL.,
14 Defendant(s).

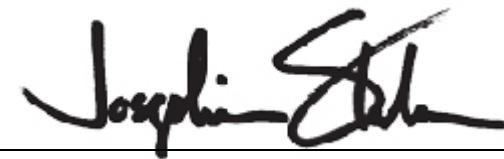
**ORDER ACCEPTING IN PART
FINDINGS AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE**

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Third Amended
18 Complaint, the relevant records on file, and the Report and Recommendation of the
19 United States Magistrate Judge. The Court has engaged in de novo review of those
20 portions of the Report to which defendant McGee has objected. The Court agrees
21 with defendant McGee’s objection and concludes that because Plaintiff was a released
22 probationer and not a convicted and sentenced inmate, as a matter of law he may not
23 assert an Eighth Amendment excessive force claim. Accordingly, Plaintiff’s excessive
24 force claim pursuant to the Eighth Amendment is DISMISSED. In all other respects,
25 the Court accepts the findings and recommendation of the Magistrate Judge.

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1 IT IS THEREFORE ORDERED that the Motion to Dismiss filed by
2 defendant Dr. Jones is DENIED. The Motion to Dismiss filed by defendant McGee
3 is GRANTED as to Plaintiff's Eighth Amendment excessive force claim, and
4 DENIED as to his Fourteenth Amendment excessive force claim.

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6 Dated: 01/30/2020
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8 HONORABLE JOSEPHINE L. STATON
9 United States District Judge
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